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Message Text

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ACTION OES-09

INFO OCT-01 ISO-00 INR-10 EUR-12 SS-15 OIC-02 CIAE-00
EB-08 EA-10 ICA-11 DODE-00 IO-13 NSC-05 NSF-01
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P 271841Z JUL 78
FM AMEMBASSY BUENOS AIRES
TO SECSTATE WASHDC PRIORITY 6704

C O N F I D E N T I A L SECTION 1 OF 2 BUENOS AIRES 5803

DEPT PASS MARINE MAMMAL COMMISSION

FROM USDEL ANTARCTIC

E.O. 11652: GDS
TAGS: XV, EFIS, TGEN, AR
SUBJECT: SECOND SPECIAL CONSULTATIVE MEETING ON ANTARCTIC
LIVING MARINE RESOURCES

REF: (A) BUENOS AIRES 5568, (B) BUENOS AIRES 5657

1. BEGIN SUMMARY: AT END OF THIRD DAY OF SECOND WEEK OF BUENOS AIRES SESSION OF SPECIAL CONSULTATIVE MEETING ON ANTARCTIC LIVING MARINE RESOURCES EVENTUAL OUTCOME REMAINS UNCLEAR. EFFORTS HAVE BEEN MADE IN HEADS OF DELEGATION MEETINGS AS WELL AS LEGAL WORKING GROUPS TO MOVE MEETING FORWARD. HEADS OF DELEGATION HAVE SUCCEEDED IN RESOLVING SEVERAL PROBLEMS IN BASICALLY ACCEPTABLE MANNER--CONSERVATION STANDARD, INSPECTION, AND FINANCING - WHILE LEGAL WORKING GROUP ATTAINED VIRTUALLY NO SUCCESS IN ITS EFFORTS TO COME TO GRIPS WITH JURIDICAL ARTICLES. CORRIDOR CONVERSATIONS GENERALLY REFLECT DELEGATES' VIEW THAT JOB WILL NOT
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BE DONE AT THIS SESSION, AND THERE IS SPECULATION ON WHERE THE CONSULTATIVE PARTIES GO FROM HERE.
END SUMMARY.

2. MORNING OF JULY 24, 1978, THE BUENOS AIRES SESSION OF THE SECOND SPECIAL CONSULTATIVE MEETING ON ANTARCTIC LIVING MARINE RESOURCES WAS DEVOTED TO

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DISCUSSION AT HEADS OF DELEGATION LEVEL OF PROPOSED AMENDMENTS TO CONSERVATION STANDARD (ARTICLE II) AND AUTHORITY TO THE COMMISSION (ARTICLE VIII) WHICH HAD BEEN AGREED WITHIN SCIENTIFIC WORKING GROUP DURING PREVIOUS WEEK. CHILE OPENED UP PROPOSED AMENDMENTS BY SEEKING DELETION OF RATIONAL USE FROM CONSERVATION STANDARD AND BY SEEKING SUPPORT FOR PROPOSITION THAT RCSHMRAND-BASUA FISHERY PROCESSING AND OTHER RELATED ACTIVITIES SHOULD BE BARRED BY THIS CONVENTION.

CHILEAN ATTACK ON RATIONAL USE FORMULATION WAS HEADED OFF BY STRONG INTERVENTIONS FROM US AND JAPAN TO THE POINT THAT ISSUE HAD BEEN DECIDED AT CANBERRA AND THAT CHILEAN INTERVENTION TOOK SESSION BACK BEFORE OPENING OF CANBERRA SESSION. ON OTHER HAND, PROPOSAL TO BAR LAND-BASED FISHERY PROCESSING PLANTS AND OTHER RELATED ACTIVITIES RECEIVED COORDINATED SUPPORT FROM ALL CLAIMANT STATES WHO ADVOCATED PROPOSAL IN CONSERVATION AS WELL AS IN POLITICAL/LEGAL TERMS. ALTHOUGH THIS MATTER WAS DEFERRED UNTIL HEADS OF DELEGATION TOOK UP MATTER SPECIFICALLY, MORNING SESSION ENDED WITH ACCEPTANCE OF CONSERVATION STANDARD BEING CONDITIONED BY CHILE AND ARGENTINA ON AGREEMENT ON BARRING FISHERY PROCESSING PLANTS IN ANTARCTICA.

COMMENT: US DELEGATION SUPPORTED IN PRINCIPLE BARRING
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FISHERY PROCESSING PLANTS IN ANTARCTIC; HOWEVER, USDEL COULD NOT SUPPORT CONCEPT AS PROPOSED BY CHILE SINCE IT PREJUDICED NON-CLAIMANT POSITION ON SOVEREIGNTY QUESTION AND WOULD HAVE BEEN PREJUDICIAL TO US INTERESTS IN FUTURE NEGOTIATIONS ON MINERAL RESOURCES. END COMMENT.

3. AFTERNOON SESSION JULY 24 BEGAN WITH A DISCUSSION AMONG HEADS OF DELEGATION REGARDING THE PRACTICAL APPLICATION OF THE CONVENTION. ENSUING DEBATE INDICATED CONSIDERABLE DISAGREEMENT BETWEEN THE DELEGATIONS AS TO JUST HOW THE CONVENTION WOULD OPERATE IN PRACTICE. IN GENERAL CLAIMANTS TOOK THE VIEW THAT THEIR SPECIAL INTEREST IN THE ANTARCTIC TREATY AREA SHOULD BE RECOGNIZED AND PROTECTED, WITH NON-CLAIMANTS TAKING POSITION THAT ALL PARTIES STAND ON EQUAL FOOTING. CLAIMANTS SOUGHT RECOGNITION AND PROTECTION OF THEIR POSITION WITHIN THE COMMISSION TO BE FORMED THROUGH DECISION-MAKING PROCESS, NOTIFICATION PROCEDURES, AND ALLOCATION OF ECONOMIC BENEFITS. DISCUSSION INDICATED THAT COMMON INTEREST IN MARINE LIVING RESOURCE CONVENTION IS NARROW AND RELATES TO CONSERVATION.

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THEREAFTER INTERESTS AND POSITION OF THE PARTICIPATING DELEGATIONS BECOME QUITE DIVERGENT.

4. DURUING LATE AFTERNOON OF JULY 24 THE CHAIRMAN DECIDED TO RECONVENE SCIENTIFIC WORKING GROUP AND TO CONVENE A LEGAL WORKING GROUP TO DISCUSS THE JURIDICAL ARTICLES. RESULTS OF LEGAL WORKING GROUP REPORTED PARA. 9 BELOW. SCIENTIFIC WORKING GROUP NEVER GOT OFF THE GROUND SINCE IT WAS NOT GIVEN SPECIFIC MANDATE FOR DISCUSSION BY THE CHAIRMAN. THE LACK OF SUCH A MANDATE WAS DUE TO PROCEDURAL BLOCKAGE BY THE SOVIET UNION OF DISCUSSION OF INTERIM MEASURES.

5. ON JULY 25 HEADS OF DELEGATION BEGAN MORNING
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SESSION WITH A DEBATE ON HOW TO PROCEED. BASIC CHOICE WAS BETWEEN AN ARTICLE BY ARTICLE DISCUSSION OR A DISCUSSION THAT FOCUSED ON SPECIFIC IMPORTANT ISSUES. IT WAS FINALLY DECIDED TO NOT GO INTO AN ARTICLE BY ARTICLE DEBATE. THEREAFTER, HEADS OF DELEGATION FOCUSED ON CHAIRMAN'S DRAFT OF ARTICLES II AND VIII WHICH INCLUDED MINOR CHANGES FROM THOSE DISCUSSED PREVIOUS DAY, AND GENERALLY FOUND CHAIRMAN'S REFORMULATION TO BE ACCEPTABLE. DISCUSSION THEN TURNED TO ARGENTINE PROPOSAL TO HAVE COMMISSION DETERMINE WHETHER STATES WISHING TO ACCEDE TO CONVENTION HAD MET ACCESSION STANDARD PRESENTLY CONTAINED IN ARTICLE 28 OF CANBERRA TEXT. IN GENERAL, DISCUSSION INDICATED THAT MOST DELEGATIONS SAW THIS AS A FUNCTION OF THE CONTRACTING PARTIES RATHER THAN THE COMMISSION; HOWEVER, DISCUSSION ENDED INCONCLUSIVELY WITH CHAIRMAN ASKING DELEGATIONS TO STUDY THE PROPOSAL. NEXT, ARGENTINA PROPOSED VOTING FORMULA WHICH WAS SAID TO BE BASED ON US DRAFT SUBMITTED PREVIOUS WEEK, BUT WHICH PROVIDED FOR DECISION BY THREE-FOURTHS OF THE CONTRACTING PARTIES, PLUS THREE-FOURTHS OF THE CONSULTATIVE PARTIES, PLUS A VETO FOR ANY PARTY WHOSE JURISDICITION WAS AFFECTED. ALSO, ARGENTINE FINANCIAL FORMULA WAS PROPOSED WHICH PROVIDED FOR CONTRIBUTIONS TO BUDGET TO BE BASED IN PART ON EQUAL SHARES AND IN PART ON HARVESTING LEVELS, WITH PRECISE FORMULA TO BE DETERMINED BY A UNANIMOUS VOTE OF THE COMMISSION.

NOTE BY OC/T: NOT PASSED MARINE MAMMAL COMMISSION.

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----------007045 282258Z /70/14
P 271841Z JUL 78
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C O N F I D E N T I A L SECTION 2 OF 2 BUENOS AIRES 5803

C O R R E C T E D C O P Y (CCY GARBLES IN PARA 6 AND 8)

6. IN AFTERNOON SESSION OF JULY 25 HEADS OF DELEGATION TOOK UP THE ARGENTINE PROPOSALS REFERRED TO ABOVE, AS WELL AS CHILEAN PROPOSAL BARRING FISHERY PROCESSING PLANTS AND OTHER INSTALLATIONS. USDEL MADE COUNTER PROPOSAL TO CHILEAN PROPOSAL, WITH NEW ZEALAND SUBMITTING A PROPOSAL IN AN EFFORT TO BRIDGE THE GAP. IT WAS RECOGNIZED BY ALL DELEGATIONS THAT THE ISSUE WAS POLITICAL AND LEGAL, SO IT WAS DECIDED TO REFER THE MATTER TO THE LEGAL WORKING GROUP. ALSO AFTER SOME DISCUSSION, IT WAS AGREED THAT SINCE THE VOTING ISSUE WAS CLOSELY LINKED TO THE JURIDICAL ARTICLES, IT TOO WOULD BE REFERRED TO THE LEGAL WORKING GROUP. HEADS OF DELEGATION THEN TOOK UP FINANCIAL ARTICLE, AND CAME TO AN UNDERSTANDING ON THE BASIS OF THE ARGENTINE AMENDMENT (PARA 4 ABOVE) ALONG WITH PROPOSAL BY JAPAN TO PROVIDE FOR A MINIMUM PERCENTAGE THAT WOULD BE PAID BY EQUAL SHARES OF ALL CONTRACTING PARTIES. THE MINIMUM PERCENTAGE IS TO BE FILLED AT THE DECISIVE MEETING. AT CLOSE OF SESSION ARGENTINA INTRODUCED MINOR AMENDMENT TO ARTICLE 18 OF CANBERRA
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TEXT WHICH DELEGATIONS REQUESTED MORE TIME TO STUDY.

7. ON JULY 26 THE HEADS OF DELEGATION REVIEWED LATEST WORK OF SECRETARIAT ON ARTICLES II AND

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VIII, AND APPROVED THOSE TEXTS, WITH CHILE AND ARGENTINA VOTING THAT ACCEPTANCE WAS CONTINGENT ON THE FISHERY PROCESSING PLANT ISSUE BEING RESOLVED SATISFACTORILY. HEADS OF DELEGATION REVIEWED THE FINANCIAL FORMULA WITH THE UK OPENING THE MATTER UP BY SEEKING A TRIGGERING MECHANISM TO INITIATE SPECIAL HARVESTING STATE CONTRIBUTIONS. THE CHAIRMAN UNDERTOOK TO PROVIDE A DRAFT, WHICH WOULD PROBABLY INCLUDE A PROVISION TRIGGERING THE SPECIAL HARVESTING CONTRIBUTIONS AT A POINT WHERE A PARTICULAR LEVEL OF HARVESTING IS REACHED. HEADS OF DELEGATION THEN SPENT UNUSUAL AMOUNT OF TIME WORRYING OVER MINOR AMENDMENTS TO ARTICLE 18 OF CANBERRA TEXT. BEFORE MORNING SESSION ENDED, DISCUSSION TURNED TO ARTICLE 23 ON OBSERVATION AND INSPECTION. FRENCH PROPOSED AMALGAMATION OF SOVIET AND JAPANESE AMENDMENTS TO CANBERRA TEXT AND OBTAINED WIDE SUPPORT. US SUPPORTED FRENCH BUT SOUGHT ADDITIONAL MODIFICATIONS TO PROVIDE THAT INSPECTION AND OBSERVATION SYSTEM WOULD RELATE TO SCIENTIFIC RESEARCH VESSELS AS WELL AS HARVESTING VESSELS.

8. IN AFTERNOON SESSION JULY 25 HEADS OF DELEGATION TOOK UP SEVERAL MATTERS OF SECONDARY NATURE IN CANBERRA TEXT. NEW ZEALAND SUPPORTED BY US SOUGHT TO INSERT STRONG OBLIGATION TO PROVIDE FOR INSPECTION AND OBSERVATION DURING PERIOD PRIOR TO THE COMMISSION ESTABLISHING THE INSPECTION SYSTEM. THIS WAS STRONGLY OPPOSED BY SOVIET UNION, JAPAN, AND POLAND. MATTER CONFIDENTIAL

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WAS SET ASIDE WHEN ARGENTINA SUGGESTED THAT THE ISSUE WAS A TRANSITORY MATTER AND THAT IT SHOULD BE SUBJECT TO SEPARATE CONSIDERATION FROM THE REGULAR INSPECTION ARTICLE. CHAIRMAN AGREED TO HAVE SECRETARIAT PREPARE A DRAFT ALONG THESE LINES. HEADS OF DELEGATION THEN TOOK UP ANOTHER NEW ZEALAND PROPOSAL FOR COOPERATION BETWEEN COMMISSION AND CONTRACTING PARTIES WHICH EXERCISE JURISDICTION IN AREAS ADJACENT TO THE CONVENTION AREA. PROPOSAL WAS MODIFIED BY US TO PROVIDE SOME BALANCE BETWEEN THE OBLIGATIONS OF SUCH STATES AND THE COMMISSION, AND THE CHAIRMAN TOOK ON THE TASK OF PREPARING A NEW TEXT. SESSION ALSO DISCUSSED MATTERS RELATING TO ACCESSION STANDARD WITHOUT REACHING ANY FIRM CONCLUSIONS.

9. WITH RESPECT TO THE INFORMAL GROUP REFERRED TO IN REFTEL (B) AND ABOVE TO DISCUSS JURIDICAL AND VOTING ARTICLES, ITS FORMATION WAS DELAYED BY DECISION OF

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CONFERENCE CHAIRMAN TO HOLD FURTHER DISCUSSION IN
HEADS OF DELEGATION GROUP OF PRACTICAL IMPLEMENTATION
OF JURIDICAL APPROACH CONTAINED IN CANBERRA DRAFT.
GROUP THEREFORE DID NOT INITIATE DISCUSSIONS UNTIL
LATE AFTERNOON JULY 24. NEGOTIATION BEGAN ON
JURIDICAL ARTICLES (IV AND XXI) WITH PARTICIPANTS
STARTING FROM POSITIONS TAKEN IN HEADS OF DELEGATION
FORUM. (CLAIMANT STATES RELUCTANTLY ACCEPTING
ARTICLES, WITH USSR, JAPAN, AND POLAND STRONGLY
ATTACKING THEM. US INDICATED THAT IT COULD LIVE
WITH APPROACH IN CANBERRA TEXT BUT IN LIGHT OF
LAST MEETING, IMPORTANT GROUP OF STATES NOT PREPARED TO
ACCEPT; CHANGES WOULD BE REQUIRED.)

AFTER TWO DAYS OF INTENSIVE NEGOTIATION, GROUP CAME
TO NO AGREED SOLUTION, ALTHOUGH MANY INVENTIVE
PROPOSALS WERE DISCUSSED.
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10. COMMENT: WITH ONLY TWO FULL DAYS REMAINING
IN THIS SESSION, DELEGATIONS ARE STILL FAR APART ON
SEVERAL IMPORTANT ISSUES. ALTHOUGH WORDS HAVE
BEEN FOUND WHICH BRIDGE SEVERAL GAPS AND SEVERAL IMPORTANT
MATTERS HAVE BEEN RESOLVED, FUNDAMENTAL ISSUES RELATING
TO SOVEREIGNTY AND VOTING ARE STILL OUTSTANDING. USDEL IS
NOT OPTIMISTIC THAT THIS SESSION WILL RESULT IN
TEXT WHICH ALL DELEGATIONS WILL FAVOR SENDING TO
A DECISIVE MEETING. END COMMENT.
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